...lorence M. Kelly
...ector, F.B.I.
...shington, D.C.

December 15th 1975

re: Ray(def.) v. Tenn., Cr. indictment no.16645, Shelby county, Tennessee. (1968)

Dear Sir:

In reference to the above titled suit, I (the defendant) have been with the assistance of counsel pursuing this matter through the courts (rather than the press & committees) for the past six (6) years attempting to have the plea voided and thereafter receive a jury trial.

However, as of late several press releases have been received here with substantial misgivings, one with reference to your office cited below:

In the December 11th 1975 edition of the Nashville Tennessean newspaper it was reported that in responce to a question from United States Senator Barry Goldwater, before a Senate committee on 12/10/75, you implied that..."depending on the Justice Department decision whether to reopen the above suit, certain evidence,eg., FBI tapes & other material pertaining to the Dr. Martin Luther King jr. investagation, would be destroyed", or words to that effect.

Because of the aforementioned implied action by your office, and since unlike the former Director the defendant has not as yet been planted and thus can and still does intend to defend himself before the courts, I would respectfully request (or what ever phrase is legally necessary) that no evidence or potential evidence be destroyed by the FBI or it's parent Justice Department until the courts, rather than the J.D., have made a final determination on the merits of the Habeas Corpus appeal now pending before the United States Sixth circuit court of appeals. See, Ray v. Rose, case no. 73-1548.

RFC-317

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Further, their should be a final determination in the cr. appeal before the windup of 1976; however, thereafter, apparently under Tennessee case law a defendant can, after the Sup. Ct. denies certiorari if it does herein, file a civil action as a collateral to the cr. action but any legal action with reference to criminal or civil can be concluded within a relatively short period in the evidentiary phase of the proceedings and thus the herein legal request that the Government not destroy any evidence in the matter does not appear to be inconsiderate or inappropriate.

The defendant is also not convinced, contrary to press speculation, that the material in question is in sum salacious in nature as it is inconceiveable the Bureau would conduct a protracted investagation looking exclusively for indecorous matter-- and the defendant would expect no evidence be destroyed relieing on such an explanation.

In a related matter, during the Watergate hearings & trials their was considerable vexation in the communications industry and their political go-betweens because of speculation in the same industry that the White House tapes and other potential evidence might be destroyed or altered thus an "obstruction of justice".

I don't expect the same vexation in the instant matter but I believe the courts did subsequently rule said White House tapes were legitimate evidence and under the same rationale the material your office has implied it would destroy would appear to be "litigimate evidence".

Further, Title 28 section 534 of the U.S. code might preclude the destroying of evidence; also, see attached clipping wherein the U.S. court of appeals for the District of Columbia ruled that "full sanctions" would in the future be invoked if the Bureau destroyed evidence which could provide information or leads for cr. defendants.

In summary, I believe the defendant, concurrently with the courts, has a substantial legal standing in this matter having been sentenced to an extended prison term in 1969 under the indictment and until just recently confined under primitive (solitary confinement) conditions and for the Government's agents to be burning potential evidence on the eve of a possible supreme court ruling, or ratifying a lower court ruling, reversing the defendant's conviction because of Fraud would appear to be Actionable.

Concluding, maybe it's custom that some type restraining order be filed with the courts to enforce the aforementioned request but where the petitioner, as defendant is, indigent the courts customarily put a liberal interpretation on matters of the instant quality.

(a copy of the foregoing letter will be posted to the A.G. for Shelby county, Tennessee, as Tennessee apparently still has jurisdiction in the indictment and interest in the subject matter.

Sincerely: defendant, James e. Ray #65477
Station-A
State prison
Nashville, Tn. 37203.

cc: Barry Goldwater, U.S. Senator
cc: Hugh Stanton jr., Esq. A.G. Shelby ct.Tn.
cc: defendant's counsel